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Attorney for Defendant

IN THE UNITED STATES DISTRICT COURT, DISTRICT OF UTAH
NORTHERN DIVISION

MICHAEL AMES,

Plaintiff,

v.

TODD CHRISTENSEN,

Defendant.

ANSWER TO COMPLAINT

Case No. 2:12-CV-481-DB

District Judge Dee Benson

DEFENDANT, TODD CHRISTENSEN, through his attorney, Frank D. Mylar, respectfully answers the allegations in Plaintiff's complaint as follows:

Defendant denies all allegations not expressly and unequivocally admitted. The below paragraphs correspond with the numbered paragraphs of Plaintiff's complaint.

A. JURISDICTION

1. Admit.

2. Deny for lack of knowledge at this time.
3. Admit that Defendant's name is Todd Christensen.
4. Not Applicable.
5. Not Applicable.
6. Not Applicable.

B. NATURE OF CASE

1. Deny.

C. CAUSE OF ACTION

Count I:

1. Deny.
2. Deny.

Count II:

1. Deny.
2. Deny.

Count III:

1. Deny.
2. Deny.

D. INJURY

1. Deny for lack of knowledge at this time.

E. PRIOR LAWSUITS

1. Deny for lack of knowledge.
2. Plaintiff has not exhausted his administrative remedies.

F. REQUEST FOR RELIEF

1. Deny

FIRST AFFIRMATIVE DEFENSE

Defendant is entitled to the defense of qualified immunity in that his actions were not contrary to clearly established law and a reasonable person would not have known that such conduct was unconstitutional at the time.

SECOND AFFIRMATIVE DEFENSE

Plaintiff failed to exhaust all of his available administrative remedies as required by the Prison Litigation Reform Act, 42 U.S.C. § 1997e, and for this reason Plaintiff's complaint must be dismissed. Specifically, the Jail has a thorough grievance policy and practice to allow inmates to assert complaints and grievances of all kinds. In addition, any claim for emotional distress must be dismissed based upon the provisions of the PLRA.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's Complaint fails to state a claim for which relief can be granted in that he has failed to specify a specific violation of federal law that is cognizable under 42 U.S.C. § 1983.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims for punitive damages are unconstitutional as a violation of the Fourteenth Amendment of the United States Constitution.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's claims for damages are speculative, conclusory, and not supported by sufficient factual allegations and as such should be dismissed.

WHEREFORE: All Plaintiff's claims should be dismissed and Plaintiff should be ordered to pay Defendants' attorney fees and costs under 42. U.S.C. § 1988.

Dated this 26th day of February, 2013

/s/ Frank D. Mylar

Frank D. Mylar
Attorney for Defendants

CERTIFICATE OF ALTERNATE SERVICE

I certify this 26th day of February, 2013, counsel's office mailed an exact copy of this answer that is filed with the United States District Court, Electronic Filing System, upon Plaintiff's last known address at:

Michael Ames, Inmate
UTAH STATE PRISON # 36474
OQU #3 204B
P.O. Box 250
Draper, Utah 84020

/s/ Frank D. Mylar

Frank D. Mylar